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Fire Insurance Company, and Travelers Casualty  
and Surety Company of America, Pacific Indemnity Company*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA, for the use  
and benefit of SUSTAINABLE MODULAR  
MANAGEMENT, INC., a Texas corporation,

Plaintiff,

vs.

JE DUNN CONSTRUCTION  
COMPANY; FEDERAL INSURANCE  
COMPANY; HARTFORD FIRE  
INSURANCE COMPANY; TRAVELERS  
CASUALTY AND SURETY COMPANY  
OF AMERICA; DOE Individuals I-X and  
ROE Entities I-X, inclusive,

Defendants.

Case No.: 2:20-cv-00790-GMN-NJK

**STIPULATION AND ORDER FOR  
EXTENSION OF TIME TO FILE PRE-  
TRIAL ORDER**

**(FOURTH REQUEST FOR EXTENSION)**

This Stipulation to extend the deadline to file Joint Pre-Trial Order to November 22, 2024,  
is made by and between Plaintiff, United States of America, for the use and benefit of Sustainable  
Modular Management, Inc. (“SMM”) and Defendants, JE Dunn Construction Company (“JE

1 Dunn”), Federal Insurance Company; Hartford Fire Insurance Company; Travelers Casualty and  
2 Surety Company Of America (collectively “the Surety Defendants”), and in support thereof, the  
3 Parties respectfully state:

4 1. Before addressing the procedural history, the Parties represent and advise they have  
5 been working hard and diligently on the Joint Pretrial Order. This has not been a situation where  
6 prior extensions were granted and either or both of the parties waited until the eve of the new  
7 deadline to seek a new extension. To the contrary, given that the construction project in dispute  
8 spanned almost four years, an extensive factual background and record was created. The material  
9 facts build upon one another as the parties dealt with many issues during the design and  
10 construction of the temporary phasing facility which is the focus of this case. In this regard,  
11 SMM’s initial draft of the joint pretrial order exceeded 70 pages. SMM and JE Dunn have each  
12 identified over 600 trial exhibits, SMM has identified over 200 material facts, and over 40 material  
13 legal issues. The parties are working hard to agree upon as many of these exhibits, material facts,  
14 and legal issues as possible to narrow the issues and simplify the trial for not only the parties, but  
15 also the Court.

16 2. On September 20, 2024, the Parties filed their Stipulation and Order for Extension  
17 of Time to File Pre-Trial Order [Dkt. 148] (the “Motion”) to October 25, 2024. The Court granted  
18 the Motion on September 23, 2024 [Dkt. 149] and extended the deadline to file the Joint Proposed  
19 Pre-Trial Order to October 25, 2024.

20 3. The parties filed a request for a request for an extension in March 2024 before the  
21 scheduled settlement conference, and two requests for an extension after the Court cancelled the  
22 settlement conference, one on August 14, 2024 and one on September 20, 2024.

23 4. SMM provided an initial version of its proposed material facts on October 7, 2024,  
24 and an initial version of its proposed legal issues on October 10, 2024, which JE Dunn and the  
25 Surety Defendants are currently reviewing and revising.

26 5. The process of managing the exhibits, contested and uncontested material facts,  
27 and legal issues remains cumbersome due to the number of exhibits, the extended time-period  
28 involved in the dispute and the substantial factual background necessary to understand and

1 determine the disputed facts and legal issues. Similarly, preparing the statement of material facts  
2 is requiring an intensive review of the underlying documents.

3 6. Consequently, the Parties are requesting an additional 28 days, until November 22,  
4 2024, to submit their Proposed Joint Pretrial Order so they can continue efforts to submit a  
5 thorough Proposed Order, including stipulating to as many material facts and legal issues as  
6 possible to narrow matters for trial.

7 7. In addition to the progress the Parties have made working on the Pretrial Order,  
8 counsel for both Parties have also maintained a heavy workload in other matters. Mr. Alfred,  
9 counsel for SMM, has, among other tasks, had to (1) continue efforts in drafting a petition for  
10 review before the Texas Supreme Court; (2) prepare for a court-ordered mediation set for October  
11 28, 2024, with a pre-mediation submission deadline on October 21, 2024, involving healthcare  
12 claims on behalf of an emergency-room provider against 58 named Defendants affiliated with  
13 Blue Cross in a case pending in the Northern District of Texas, Fort Worth Division, (3) prepare  
14 a response to a Motion for Summary Judgment in a case pending in Harris County, Houston,  
15 Texas; and (4) attend a pre-trial conference in a case pending in the 471<sup>st</sup> Collin County,  
16 McKinney, Texas.

17 8. Robert Roos, counsel for JE Dunn and the Surety Defendants, has, among other  
18 tasks, (1) a temporary restraining order and follow on preliminary injunction hearing in Yuma  
19 County, Arizona, the weeks of October 7, and October 14, 2024 with continuing work in that  
20 matter, (2) a Reply Brief and Answering Brief on Cross Appeal due on October 18, 2024, and (3)  
21 has a mediation statement due on October 21, 2024. Mr. Roos has continued to be involved in  
22 substantial client counselling work on two large construction projects along with this workload.

23 9. Accordingly, the Parties respectfully and jointly request a 28-day extension of time  
24 to file the Joint Pre-Trial Order until and including November 22, 2024.

25 10. There is good cause to grant this stipulation because the Parties have been working  
26 diligently on the proposed Joint Pre-Trial Order but require additional time to prepare and finalize  
27 it.  
28

11. This is the Parties' fourth request for an extension of the deadline to file their jointly proposed Pre-Trial order but only the third request since the court cancelled the settlement conference previously scheduled for June 25, 2024. This stipulation is filed in good faith and not intended to cause delay.

DATED this 21<sup>st</sup> day of October, 2024.

DATED this 21<sup>st</sup> day of October, 2024.

HARTWELL THALACKER, LTD.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

BY: /s/ Michael S. Alfred (with permission)

BY: /s/ Robert Roos

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*Attorneys for Plaintiff*

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JE Dunn Construction Company and Surety  
Defendants*

**ORDER**

**IT IS SO ORDERED**

Dated: October 30, 2024.

  
United States District Court Judge

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that on October 21, 2024, that the above FOURTH STIPULATION AND ORDER FOR EXTENSION OF TIME TO FILE PRE-TRIAL ORDER was served via electronic service on all counsel of record.

/s/Robert Roos

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